

F

230

.P48







JOHN HOWE PEYTON.



# JOHN HOWE PEYTON.

## CEREMONIES

### ATTENDING THE PRESENTATION OF HIS PORTRAIT

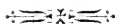
to the County of Augusta.



"Great men heighten the consciousness of the human race, and it is our grateful duty to magnify him whose genius magnifies mankind."



(Printed for Private Circulation.)



STAUNTON, VA.:  
A. B. Blackburn & Co.,  
1894.



F-48

21



## Stout and Peyton Correspondence.

STAUNTON, OCT., 29th, 1892.

*To Col. John L. Peyton,*

MY DEAR COLONEL—In accordance with the wishes of the bar and people of the county generally, it is the purpose of the county court to place in the Court House, if they can be obtained, portraits of our eminent lawyers of the past. Among the most distinguished of our jurists was your father, Hon. John Howe Peyton, distinguished alike for his varied abilities as a scholar, lawyer and statesman, for the extent of his learning and the purity of his private and public morals. For nearly forty years he displayed his great qualities on this theatre to the admiration and advantage of the public, and I trust you may be able to accede to my request and supply a copy, life size, of his portrait.

I am, very truly, your friend,

JOHN W. STOUT,  
Judge of Augusta County.

STAUNTON, OCT. 31st, 1892.

*Hon. John W. Stout, Judge of Augusta County:*

MY DEAR JUDGE—I have had the honor to receive your kind and courteous note asking for a copy of my father's portrait, to be placed in the County Court House, among those of the eminent lawyers of Augusta, and hasten to say in re-

ply that it will give me great pleasure to comply with your request.

I have the honor to be, Judge, with great respect and esteem,

Your friend, &c.,

J. L. PEYTON.

IN accordance with his promise to Judge Stout, Col. Peyton instructed Mr. Edm. Berkeley, of Staunton, to employ an experienced and competent artist of New York City to make, in oil, a portrait of his father. Some delay took place in the matter, as Col. P. had promised a portrait of his father to Washington and Lee University, Lexington, which was executed by the same artist and sent to Lexington last year.

In the month of July, 1894, the portrait of Mr. Peyton was finished in New York and expressed to Staunton, where it safely arrived. Col. Peyton duly advised Judge Chalkley, the successor of Judge Stout in the office of County Judge, of the fact and received the following letter from him:

STAUNTON, JULY 2ND, 1894.

*My Dear Col. Peyton:*

I am very much pleased to know that the portrait of your father, Hon. John Howe Peyton, which was gotten by you at the request of Judge John W. Stout, to be hung in the County Court House, has arrived in Staunton. As far as it is in my province to speak, accept my assurances that it will be received by the people of Augusta County with the most cordial feelings toward you, and with the greatest admiration for the memory of one who has reflected so much credit upon Augusta County.

It will give me great pleasure to go with you to the

Court House at any time that may be convenient to you, for the purpose of selecting a place to hang the portrait.

Believe me to be, with the greatest respect and consideration,

Very truly yours,

LYMAN CHALKLEY.

A few days later, on behalf of the County Court, an invitation was extended to the leading families of the town and county to attend a public meeting of the county officials and the general public, at the Court House, on July 20th, at 12 o'clock, M., when the portrait would be formally presented to the county by Capt. James Bumgardner, Jr., and be accepted by Major T. C. Elder on behalf of the county, these gentlemen, two of the ablest and most eloquent members of the bar, having been selected by Judge Chalkley for these pleasing duties.

## The Public Meeting.

The meeting announced to take place at 12 o'clock, July 20th, for the reception of Mr. Peyton's portrait, was duly held in the Court House on the day and at the hour specified. It was largely attended by the county officials, among them Hon. Lyman Chalkley, Judge of the County, N. B. Watts, Sheriff, Wm. A. Burnett, County Clerk, and others, including the Supervisors, the members of the bar and many others, among whom were a number of ladies.

On motion of Capt. Thos. D. Ranson, seconded by Wm. P. Tams, Esq., Capt. George M. Cochran was called to the chair. Capt. Cochran explained briefly the object of the meeting, when Capt. Bumgardner arose and said:

### CAPT. JAMES BUMGARDNER'S SPEECH.

#### *Gentlemen of the Board of Supervisors:*

The late lamented Judge Stout, who did much to entitle him to be gratefully remembered by the people of Augusta County, requested that a copy of the portrait of John H. Peyton might be made, to be placed on the walls of this Court room.

In accordance with that request the portrait has been made, and on behalf of Col. John Lewis Peyton and the other descendants of John H. Peyton, I deliver this portrait to you, as the representatives of the County of Augusta, in order that the purpose of Judge Stout may be carried into effect; and that this portrait may be placed in that group of illustrious

citizens, with all of whom he was closely associated in life, and with whom he is entitled to be grouped and remembered in all time to come, as one of the men who have made the Staunton bar famous and honored, and who in their day enjoyed and deserved to enjoy, the esteem and admiration of their countrymen.

John H. Peyton was born in Stafford County, Virginia, in the year 1778. He inherited the virtues of patriotism, devotion to duty, courage and honor from his father, who illustrated them in the highest degree as a soldier of the Revolution. His academic career was distinguished by faithful application and great ability, and he graduated at Princeton, taking with high honors the degree of Master of Arts in the year 1797. After finishing his academical course he went earnestly to work to prepare himself for the professional career in which he rendered such faithful and honorable service to the Country and in which he earned so much honor and distinction. He studied law under the advice and tuition of Judge Bushrod Washington of the Supreme Court of the United States, and with his ability, and taught by such a master, it is not surprising that the accuracy and extent of his legal knowledge placed him in the front rank of the great men of his profession, who were his contemporaries. He commenced the practice of the law on the Fredericksburg Circuit. In the year 1806 he was elected as a Member of the House of Delegates from the County of Stafford, and was again elected in 1807. As a debater he had no superior on the floor of the House.

Mr. Peyton removed to Staunton and commenced the practice of the law in the Courts held in Staunton and the adjoining Counties in the year 1808, and he devoted himself to the practice of the law from that time until his death in 1847. His great and recognized ability in the practice of his profession is shown by the fact that he was appointed Attorney of

the Commonwealth for this Circuit immediately after his removal to Staunton, and three years later in 1812, Attorney for the Commonwealth for Augusta County. Chapman Johnson, who said he himself was not suited for the office, resigning it that Mr. Peyton might be elected, whom he declared was the ablest public prosecutor in Virginia. During the year 1812 he served as Chief of Staff of General Porterfield. In his army service he established his reputation as an able, enterprising and gallant officer. With the exception of his service in the House of Delegates, in the Senate and in the Army, his time and energies were spent in the arduous duties of his profession.

He was Mayor of Staunton in the years 1816 and 1817, but his performance of the duties of that office was not of course any serious interruption to the laborious work of his profession. From 1812 (when he was appointed Attorney for the Commonwealth for the County of Augusta,) he filled that office continuously until 1844, serving in the mean time for two terms in the Senate of Virginia from 1836 to 1844, when he resigned from ill health. And now, because sirs, during that long period he was one of the great men of this bar, because he was one of the great citizens of Augusta County, because it is of interest and benefit to the Commonwealth, that the memory of her great and able men be preserved and cherished, this picture was asked for, that its presence on these walls might be a perpetual evidence of his ability and virtues, and evidence of how the people of this County recognize, reverence and honor those lofty attributes of mind and heart, which give fame and distinction to the locality in which they are displayed. It is now forty-seven years since Mr. Peyton passed away. Since his death nearly two generations have been born and died. Of the men now living in this County very few personally knew Mr. Peyton, or personally know the position he occupied in the estimation of the bar, of the

men, and of the community of his day and time. That position is clearly shown by the written expressions of many great men of his day, and as these expressions will convey a clearer idea of Mr. Peyton's character than I am able to give in any other way, I think it most proper on this occasion to quote them.

Mr. Peyton was the author of the celebrated report opposing the Amendment of the Constitution of the United States, proposed by the State of Pennsylvania, for the alleged purpose of preventing collisions between the Federal Government and the State Governments; concerning which report Mr. Webster said, that "the reasoning and conclusions were unanswerable" and on another occasion said, "it was a misfortune that he was not in Congress".

Benjamin Watkins Leigh said, "He was the greatest lawyer west of the Blue Ridge."

Chapman Johnson said, "He was the greatest criminal lawyer and public prosecutor I have ever seen."

Judge Henry St. George Tucker said, "He was one of the most profound and learned of lawyers."

Daniel Sheffy said, "He possessed gigantic power without effort, and was not only a great but a good man."

Major James Garland, of Lynchburg, said, "There was no greater lawyer in Virginia."

Judge Alexander Rives wrote that "I know no lawyer in Virginia for whom I have the same admiration, respect and esteem."

John B. Baldwin said, "He was the greatest common-law lawyer he ever knew."

Judge Briscoe G. Baldwin said, "He had more strength, originality and learning than any lawyer of his acquaintance."

Judge Lucas P. Thompson said, "His sentiments were illuminated by genius."

Sidney S. Baxter, late Attorney General of Virginia said "No lawyer in Virginia equalled him in debate."

Thomas J. Michie said of him: "That he was a man who had served his country with distinguished ability in various civil positions in time of peace, who has honorably and gallantly served and sacrificed his property in time of war, a man whose honor and integrity have never been impeached in this or any other community."

Judge R. C. L. Moncure in speaking of him as a young lawyer said: "He took a position on being admitted to the bar which brought him immediate and continued popularity as a lawyer, a pleader and a scholar."

T. M. Green, a distinguished lawyer and author, of Kentucky, said: "John Howe Peyton was eminent as a lawyer, statesman and orator."

Professor J. T. L. Preston, late of Virginia Military Institute, said: "He was a champion in every branch of his profession."

The late James D. Davidson, of Lexington, said: "I regarded him altogether as a superior being."

The late William Frazier said: "His pleadings were master pieces of art."

The late Judge McCue said: "In his discourses he displayed a soundness of view, an extent of research, a manliness of principle, an accuracy of learning and a vigor of style surprising anything I have ever heard."

Mr. Peyton was as eminent for stern integrity as for learning and ability, and in that connection a writer, whose name I will not call, as he is still living, said: "I never knew a man who had more of what Edmund Burke styled "the chastity of honor which felt a stain like a wound."

I have heard many lawyers who personally knew Mr. Peyton as a lawyer speak of him, and, without exception,



they placed him in the very front rank of the great lawyers of his day, and the late Judge Sheffey, with whom I was associated for so many years as a partner, spoke of him often and alluded to his appearance in a celebrated cause, which at the time of its trial, made a most profound impression upon the community, and said that Mr. Peyton's description of the facts connected with the *corpus delicti*, and the behavior of the accused at the time was the most dramatic, powerful and stirring burst of eloquence he had ever heard or read, and that during the utterance of the speech there was not a dry eye in the crowded Court House.

It will be observed that these statements are made by men qualified in the highest degree to estimate justly human character and ability, and who had the very best opportunity of judging the character and ability of Mr. Peyton, as they were intimately associated with him at the bar and in public life; and their testimony therefore is conclusive, that Mr. Peyton was a man of commanding ability, of the highest culture, of profound legal learning, of the sternest integrity and the strictest honor, and is worthy to be commemorated in the manner proposed by placing this portrait in the group which now now adorns these walls, and I now take great pleasure in presenting it to you for that purpose."

At the close of his discourse the audience warmly applauded Capt. Bumgardner, as it had repeatedly done during its delivery.

#### MAJOR ELDER'S ADDRESS.

Major Elder then arose and spoke in the following terms:

To Col. John Lewis Peyton, whom I see before me, and who by right of primogeniture now stands at the head of the descendants of John Howe Peyton, and through him to all the

descendants of this eminent man, I would say that the people of the County of Augusta, represented by the Judge of their County Court and Board of Supervisors, have requested me to signify the acceptance by the County of the admirable portrait of Mr. Peyton which has just been tendered it by Capt. Bumgardner in such appropriate and beautiful terms. Col. Peyton, in presenting to his native County this portrait of his distinguished father has done well, in that he has at once performed an act of filial piety and conferred a public benefit; for whilst Col. Peyton has by this act given apt expression to the tender and loving relations which should exist between a dutiful son and an honored parent, it must also be remembered that the father whom he loved so well was amongst the most distinguished of Augusta's adopted sons, and she is now given an opportunity of manifesting towards him those sentiments of affection and pride which a mother cherishes for her honored children. Individuals and families honor themselves in honoring their worthy ancestors, and communities and states offer the highest incentive to industry, virtue and patriotism by honoring the memory of those who have filled public stations with fidelity and zeal for the public good.

I shall not attempt a biographical sketch of Mr. Peyton. Capt. Bumgardner has told us of his birthplace and honorable lineage, of his collegiate education and subsequent preparation for the bar, of the commencement of his professional career in his native County of Stafford, and in connection therewith of his early selection for the office of Commonwealth's Attorney for that County, and of his having been chosen several times to represent it in the popular branch of the general assembly of the State before his removal to Staunton in 1808. We have also been told of the course of his life after his removal to this place. Some account of his merits must have preceded him, for almost immediately after settling here he was appointed Commonwealth's Attorney for this Circuit by its presiding

judge, and in two or three years afterwards the distinguished Chapman Johnson resigned the office of prosecuting attorney for this county, in order, as it is said, that Mr. Peyton, because of his peculiar fitness, might be chosen for the place. It seems that from the time Mr. Peyton came here to live until he was disabled by the disease that ended his life, his time and talents were devoted to the study and practice of his chosen profession; for he belonged to that class of lawyers who do not stop studying when they begin to practice. During almost the whole of his professional life in this county he was Commonwealth's Attorney either for the County or the Circuit, and for the most part for both. The reputation he made as a prosecuting officer has rarely, if ever, been excelled in this State.

But whilst devoted to the law, which he studied as a science, and practiced only a great and noble profession should be practiced, he was by no means unmindful of the duties he owed the community in which he lived and the State and Country of which he was a citizen. As a military officer of the war of 1812, and as a member of the Senate of Virginia for a number of years, he discharged his duties incumbent upon him in these positions with honor to himself and with benefit to the State. And over the public assemblage of the people of this town and county occurring in his day, he was frequently called on to preside, upon which occasions he always acquitted himself with dignity and grace. He took a lively interest in everything of a public character that was going on around him.

He was one of those who think that every man should be more than his work: wider and higher than the business or calling by which he earns his daily bread. Some there are indeed who, whilst thinking this should be so, have barely the capacity to discharge the duties of their vocations, and

are without time or strength for anything else; and hence must submit to be driven—

"Round the daily scene  
Of sad subjection, and sick routine."

until death relieves them of their bondage.

But we have been told by Capt. Bumgardner that Daniel Sheffey, a competent judge surely, in speaking of Mr. Peyton, said—"He possessed gigantic power without effort." No greater compliment could be paid to the intellect of any man. Mr. Peyton had time enough to become great in his profession, and to spare for other things. With him his daily work was a pleasure rather than a burden. Fortunate indeed is the man who is so gifted. The consciousness of the possession of such powers and the use of the in right directions must be a delight to the possessor.

This appears to have been the thought of Macauley, when contemplating Milton in his poetic flights, after the constructive and artificial parts of his was done, he fancies the great poet might have said to himself:—

"Now my task is smoothly done  
I can fly, or I can run."

Nature was in various ways lavish in the bestowal of her favors upon him of whom we speak to-day. Not only did she endow him with high intellectual gifts, but he had *mens sana in sana corpore*. He was a large, well proportioned man, of dignified bearing and pleasing address, with a glow and color indicative of a fine physical constitution. Like jewels in a setting, at once strong and graceful, the mental powers of Mr. Peyton were displayed to the best advantage through his magnificent form and presence. How we all do admire intellectual power! and if associated with physical size and strength and manly beauty, we admire it all the more. But, it may be repeated, intellectual power, talent, and genius are always admired for their own sake. The fact that they are associated with bad moral qualities, and indeed with great

vices, does not wholly deprive them of their charm. Lord Bacon, sometimes described as the "greatest, meanest of mankind," will never cease to be admired by even the best of men for his towering and resplendent intellect. Satan, as depicted by Milton, while revolting in the hideousness of his moral deformity, excites our interest, and, in a sense, extorts our admiration by the grandeur and independence of his masterly mind. But it was the crowning excellence of him whose memory we honor to-day, that he was as pure and noble in heart as he was great in mind. In him there was that fine and harmonious combination of high moral qualities and great intellectual powers which makes the model man. This combination of moral and intellectual qualities is what so greatly commended this man to the regard and esteem of his cotemporaries, and it is what still keeps his memory fresh.

And the moral qualities now referred to are not merely such as truth, sincerity, honesty and integrity, which, and the like of which, Mr. Peyton, it is true, possessed in an eminent degree, but also the rarer virtues of firmness, self reliance, persistence in the right, fearlessness in the discharge of duty, a strong sense of justice and a refined sense of honor.

An displaying constantly, as he did, these noble qualities in the practice of his profession, he left the lawyers of this bar and of the bar throughout the State an example worthy of the closest imitation. In the discharge of his duties as a prosecuting attorney, whilst he never permitted those he believed to be guilty to go wholly unwhipped of justice if he could prevent it, on the other hand he would have considered it a crime in himself to have asked for the conviction of one whose guilt was not sufficiently established. He was an independent and conscientious practitioner in the civil departments of his profession. Well it is for the lawyers of the present day, and well it will be for those who are to follow them, that the portrait of such a lawyer should be ever looking down upon them from the walls of this hall of justice.

Its presence here will be at once an inspiration and a restraint.

With the form and features of John Marshall, the great expounder of the Federal Constitution and the founder of our Federal Jurisprudence, and with the forms and features of such of his disciples as John H. Peyton, Thomas J. Michie and John B. Baldwin, ever before them, the lawyers who come here to practice their profession should not go wrong.

Nor is the presence of the portraits of these great men in this public place without its purifying and elevating influence on the great body of the people who are wont to congregate here. Every community is deeply interested in the qualifications and character of its lawyers. Like people like bar. If the people want clean and competent lawyers to transact their business, such will be forthcoming; if, on the other hand, lawyers of a different kind are wanted and encouraged they will abound.

But it is not only because the men whose likeness adorn these walls were great lawyers that they are entitled to the admiration of the public; but also because they were upright and honorable in all the relations of life, both private and public. In political matters they were candid and straightforward, and, above all things, patriotic. They were not office seekers. So far as they were office holders, the offices sought them. None of Mr. Peyton's co-temporaries ever supposed that he would of his own motion actively seek a political office. But when the people amongst whom he lived desired his services in a public capacity they were not withheld: and they were rendered with strict regard to the public interests, and without any regard at all to his personal promotion. With him and with those like him, public office was indeed a public trust. John Howe Peyton was never the man to sacrifice a political conviction for office. He was a leader rather than a follower of public opinion, and he always guided it in the ways of justice, of honor, and of patriotism.

What was it that first gave to this County of Augusta her high and enviable position amongst the Counties of Virginia? It was the custom of putting forward her best men to represent her in the legislature, and in the various public assemblages of the State. The name of Augusta is indissolubly linked with the names of her distinguished sons who are gone. In the eloquent language of a great patriot—"The past is at least secure."

I claim to be a man of progress, and trust I duly appreciate the wonderful advances of recent years in the development of the resources and material wealth of our State and Country and in diffusion of education and other blessings; but at the same time, I would hold fast to the former things that are good. In this respect at least, if necessity required, I would rather adopt the motto engraved on the public seal of our Country *Redeant in aurum secula prisca* "Let the ages return to the first golden period."

May God bless the County of Augusta and may He raise up men, great and true, to serve and honor her in the future as John H. Peyton and her two other sons whose portraits adorn these walls served and honored her in the past.

When Major Elder resumed his seat he was greeted with loud applause.

#### COL. J. L. PEYTON'S REMARKS.

Silence being restored there were calls from all parts of the house for Col. Peyton, who came forward in response to them and spoke in substance as follows:

He said he was taken entirely by surprise, but gladly availed himself of the occasion to thank Capt. Bumgardner and Major Elder for their polished and eloquent speeches and the lofty tributes they had paid to his father; he was pleased that his father's portrait would henceforth adorn the walls of this hall, which had so often resounded to his eloquence, and would be evermore displayed in the midst of a people he

loved so well, and for whom he labored so faithfully. He confessed to a devout veneration for great and good men—the heroic masters in virtue, and felt a desire to exalt them as ideals, which would exert an influence to mould to their likeness those who earnestly contemplated them. Leaving out of view all other aspects of his father's character, he might be permitted to say that no man had a deeper or more inextinguishable thirst to promote human liberty and happiness, and such was his unselfish patriotism that it could be truly said of him that it ever was "his country first, his country last, his country all the time. [Applause.]

HON. JOHN RANDOLPH TUCKER'S LETTER.

Major Elder then read the following letter from Hon. J. Randolph Tucker:

LEXINGTON, VA., JULY 18th, 1894.

*T. C. Elder, Esq.:*

MY DEAR FRIEND:—

I should be glad to be present at the presentation of the portrait of the late Hon. John Howe Peyton to the county of Augusta and to hear the addresses appropriate to its presentation and reception, delivered by Capt. Bungardner and yourself.

The adornment of your Court House by the pictures of the men whose genius has honored the county, and whose eloquence still lives in the memory, as its echoes linger in the walls of the old forum of its mighty people, is a noble method of perpetuating the virtues of her great men and holding them up as models and examples for the rising generation.

I was too young to know and fully appreciate the eminent abilities of Mr. Peyton as they deserved to be. But I remember him, when as a boy, in 1839-'40, I traveled with him from Charlottesville to Richmond, when the snow obstructed travel and detained us at Trevilian's for more than a



day. His genial and cordial manners to a lad [Mr. T. was then about 19 years of age] and his charming conversational powers—mingling vivacity of humor, with grave disquisition on more serious matters—fascinated me then, and so live in my memory, as to make me sympathize in all honors done to his name, and attract me to the scene where that is to be so worthily manifested.

But I am not quite well and my duties here forbid my attendance on the occasion.

In full sympathy with the occasion, and wishing the ceremonies to be fully successful, I am, sincerely,

Your friend,

J. R. TUCKER.

Major Elder then remarked that he had just been furnished by Judge George M. Harrison with an extract from a speech made by Mr. Peyton when only twenty-two years of age—a speech made to the grand jury of his native county—which threw a light upon Mr. Peyton's whole life and character as a public prosecutor. The Major then read this extract from Mr. Peyton's speech:

*"The history of man from the primeval simplicity of our first parents to the present day has satisfactorily proven that neither the dictates of reason, the light of philosophy, nor the divine precepts of our holy religion furnish adequate restraints to his vicious propensities."*

The meeting then, on motion of the Hon. Marshall Hanger, adjourned.

GEO. M. COCHRAN,  
Chairman.

## Editorials From the Staunton Papers.

---

It will not be uninteresting in this connection to read the following editorials from the leading Staunton papers.

In the Daily Post of the same evening this article appeared:

JOHN HOWE PEYTON.

---

PORTRAIT OF THIS EMINENT VIRGINIA JURIST PRESENTED  
TO THE COUNTY.

---

CAPT. JAMES BUMGARDNER MAKES THE SPEECH OF PRE-  
SENTATION, AND MAJOR ELDER THAT OF ACCEPT-  
ANCE—BRIEF SKETCH OF HIS CAREER.

---

As previously announced, the oil portrait of the late Hon John Howe Peyton, which, at the suggestion of the late Judge Stout and the Board of Supervisors was placed in the Court House of Augusta County, was formally presented and received to-day at noon.

Captain George M. Cochran presided over the meeting. The jury box was occupied by the Supervisors and within and around the bar inclosure were gathered many of the leading members of the bar, ladies and relatives of the late Mr. Peyton. Among them was Captain James Bumgardner, who, on behalf of the family of Mr. Peyton made the formal presentation address, Major Thomas C. Elder, who received the

portrait on behalf of the county, Colonel John L. Peyton, son of the gentleman honored, Mrs. Peyton and others. The portrait was hung in its place upon the north wall in rear of the bench and to the east of that of the late Chief Justice Marshall.

Captain Bunigardner's address reviewed the circumstances leading up to the presentation, and the life and eminent achievements of the distinguished jurist. His address was chiefly biographical, and quoted many distinguished gentlemen in eulogy of Mr. Peyton as a complete lawyer, patriotic citizen, and great and good man. He was born in Stafford County, April 3d, 1778; was educated in Fredericksburg and at Princeton, from which he was graduated with the A. M. degree, studied law under Judge Bushrod Washington, of the United States Supreme Court, and further equipped himself for his profession by an extensive course in literature. In 1800 he began the practice of law in Fredericksburg, and soon achieved distinction. In 1804 he married Susan, daughter of William S. Madison, a cousin of President James Madison. In 1806 he was elected to the Virginia House of Delegates, and served with ability for four years. He was considered the most brilliant debater in that body. A series of resolutions written by him opposing a constitutional amendment providing a tribunal to settle disputes between the State and Federal Judiciary were quoted by Daniel Webster in his memorable debate with Hayne and were characterized by him as unanswerable.

In 1808 Mr. Peyton located in Staunton and was made Public Prosecutor of the Judicial Circuit of Augusta, Albemarle, Rockingham and Rockbridge. During the war of 1812 he served with distinction on the staff of General Porterfield and on his return was made Mayor of Staunton. In 1822 he was married to Miss Ann Montgomery, daughter of Colonel John Lewis and his wife, Mary Preston.

In 1836 he was elected State Senator from Augusta and Rockbridge, and served there until 1845, when he resigned. In June, 1844, after a continuous service of 32 years, he resigned the office of Commonwealth's Attorney for Augusta. He died at Montgomery Hall, near Staunton, April 29, 1847.

Maj. T. C. Elder, on behalf of the county, received the picture in a polished and scholarly address, which was generally pronounced one of the finest addresses of the kind ever heard here. The son, said the speaker, had done an act of filial piety and at the same time a service to his county in presenting this portrait of his honored father. The speaker then reviewed the career of Mr. Peyton, paid a splendid tribute to his legal abilities, which was acquiesced in by many of Virginia's most distinguished men. He held up for the emulation of the bar his untarnished integrity, devotion to duty and loftiness of life and purpose as exhibited in his practice in this court, and referred to the portrait along with those of Michie and Baldwin as among the household gods of the county. In the name of Judge, Supervisors and people he accepted the portrait and promised that it would be highly prized.

Col. John L. Peyton, being called for, responded briefly, thanking the gentlemen who had spoken for their lofty tributes to his father.

The meeting then adjourned.

[From Staunton Spectator.]

## PORTRAIT OF HON. JOHN HOWE PEYTON.

---

PRESENTED TO THE COUNTY OF AUGUSTA BY HIS SON,  
COL. JOHN LEWIS PEYTON.

---

At the request of the late Judge John Stout, Col. John L. Peyton had a portrait of his distinguished father painted to be

presented to the county to be placed on the wall of the Court-room beside the portraits of Chief Justice John Marshall, Thos. J. Michie, and Col. John B. Baldwin. The formal presentation of the portrait took place at a meeting held in the Court-house at 12 o'clock last Friday, July 20th, at which the Supervisors of the County, the members of the Staunton Bar, some ladies, and a large number of others were present.

On motion of Capt. Thos. D. Ranson, Hon. Geo. M. Cochran was made Chairman of the meeting.

On taking the chair, he announced its object and said that the meeting was ready for business. Then Capt. Jas. Bumgardner, on behalf of Col. John L. Peyton, delivered the presentation speech, which was done in fine style. He prefaced his speech with the following remarks:—

“Gentlemen of the board of Supervisors :

The late lamented Judge Stout, who did much to entitle him to be gratefully remembered by the people of Augusta county, requested that a copy of the portrait of John H. Peyton might be made, to be placed on the wall of this court room.

In accordance with that request, the portrait has been made, and on behalf of Col. John Lewis Peyton, and other descendants of John H. Peyton, I deliver this portrait to you, Augusta, in order that the purpose of Judge Stout may be carried into effect; and that this portrait may be placed in that group of illustrious citizens, with some of whom he was closely associated in life, and with whom he is entitled to be grouped and remembered in all time to come, as one of the men who have made the Staunton bar famous and honored, and who in their day enjoyed and deserved to enjoy the esteem and admiration of their countrymen.”

Then followed a very interesting succinct biographical sketch of the able lawyer, orator, and legislator whose portrait he was deputed to present to the county. It embraced Mr. Peyton's distinguished services from his early manhood to the

time of his death in 1847. Capt. Bumgardner quoted the remarks of quite a number of able lawyers and others, the contemporaries of John Howe Peyton, as to his ability as a lawyer and legislator, and all concurred in the opinion that he was one of the ablest lawyers of the State of Virginia, and Virginia has had, and still has, a great many very able and learned lawyers. We regret that we have not space for these eulogistic quotations. They show that he was not only an able lawyer, but a great and good man, whose integrity and patriotism was above reproach.

After the quotations from these distinguished men, Capt. Bumgardner concluded his address as follows:—

“It will be observed that these statements are made by men qualified in the highest degree to estimate justly human character and ability, and who had the very best opportunity of judging the character and ability of Mr. Peyton, as they were intimately associated with him at the bar and in public life, and their testimony therefore is conclusive, that Mr. Peyton was a man of commanding ability, of the highest culture, of profound legal learning, of the sternest integrity and the strictest honor. And it is worthy to be commemorated in the manner proposed by placing this portrait in the group which now adorns these walls and I now take great pleasure in presenting it to you for that purpose.”

#### REMARKS OF MAJOR THOS. C. ELDER.

Then Major. Thos. C. Elder on behalf of the Supervisors of the county made his speech accepting the portrait, which duty he performed in good taste and in an able and admirable manner. He began his speech by referring to the donor of the portrait and said:—

“To Col. John Lewis Peyton, whom I see before me, and who by right of primogeniture, now stands at the head of the descendants of John Howe Peyton, and through him to all the descendants of this eminent man, I would say that the people

of the county of Augusta represented by the judge of their county court and board of supervisors have requested me to signify the acceptance by the county of the admirable portrait of Mr. Peyton, which has been tendered it by Capt. Bumgardner in such appropriate and beautiful terms. Col. Peyton, in presenting to his native county this portrait of his distinguished father has done well, in that he has at once performed an act of filial piety and conferred a public benefit; for whilst Col. Peyton has by this act given apt expression to the tender and loving relations which should exist between a dutiful son and an honored parent, it must also be remembered that the father whom he loved so well was amongst the most distinguished of Augusta's adopted sons, and she is now given an opportunity of manifesting towards him those sentiments of affection and pride which a mother cherishes for her honored children. Individuals and families honor themselves in honoring their worthy ancestors, and communities and States offer the highest incentive to industry, virtue and patriotism by honoring the memory of those who have filled public stations with fidelity and with zeal for the public good.

Then Major Elder spoke of the great abilities and noble virtues of John Howe Peyton. It was the happy combination of both that made him the great and good man that he was. The good influence of such a character was ably presented, and the beneficial effect the presence of of the portrait of such a man in the court-room would have on the bar.

We regret that we have room only for a few brief extracts which we give as follows:—

“But we have been told by Cap. Bumgardner that Daniel Sheffey, a competent judge surely, in speaking of Mr. Peyton, said: “He possessed gigantic power without effort.” No greater compliment could be paid to the intellect of any man. Mr. Peyton had time enough to become great in his profession and to spare for other things. With him his daily

work was a pleasure rather than a burden. Fortunate indeed is the man who is so gifted. The consciousness of the possession of such powers and the use of them in right directions must be a delight to their possessor."

\* \* \* \* \*

"But it was the crowning excellence of him whose memory we honor to-day, that he was as pure, as noble in heart as he was great in mind. In him there was that fine and harmonious combination of high moral qualities and great intellectual powers which makes the model man. This combination of moral and intellectual qualities is what so greatly commended this man to the regard and esteem of his cotemporaries, and in what still keeps his memory fresh."

\* \* \* \* \*

"Well it is for the lawyers of the present day, and well it will be for those who are to follow them, that the portrait of such a lawyer should be ever looking down upon them from the walls of this hall of justice.

Its presence here will be at once an inspiration and a restraint.

With the form and features of John Marshall, the great expounder of the Federal Constitution and the founder of our Federal jurisprudence, and with the forms and features of such of his disciples as John H. Peyton, Thomas J. Michie and John B. Baldwin, ever before them, the lawyers who come here to practice their profession should not go wrong."

At the conclusion of Major Elder's speech, calls were made on Col. John L. Peyton, who arose and responded in a few brief remarks which can be found on page 18 of this pamphlet.

[From Vost's Weekly.]

### PRESENTATION OF A PORTRAIT.

---

A goodly company, including a number of ladies, assembled in the Court-house at noon on Friday last to witness the



presentation to Augusta County of the portrait of Hon. John Howe Peyton, than whom the old county never had a more distinguished son, for although born outside of her confines, the major part of his long and useful life was spent in her service, and the lustre of his fame forms one of her richest heritages and is indissolubly interwoven with her history and progress.

The meeting was called to order by Capt. T. D. Ranson, and, upon his motion, George M. Cochran, Esq., was designated to preside. Mr. Cochran briefly stated that the object of the meeting was the presentation to the Board of Supervisors of Augusta County of a portrait of the late Hon. John Howe Peyton and its acceptance by the authorities.

On behalf of Col. John Lewis Peyton and other descendants of the great lawyer, Capt. James Bumgardner made the presentation address. It was a theme worthy of the best effort and the address was worthy of the theme, and worthy too of the head and heart of the learned and gallant gentleman chosen for the task. He sketched the distinguished career of John Howe Peyton from his birth in Stafford county in the year 1778. Endowed with talents of a high order, Mr. Peyton entered Princeton at an early age, graduating from that institution as Master of Arts in 1797. He studied law under Judge Bushrod Washington of the Supreme Court of the United States, and commenced the practice of his profession on the Fredericksburg circuit. In 1806 he was elected as a member of the House of Delegates from Stafford County, and re-elected the following year and served until 1810 and 1811. In 1808 he removed to Staunton, and was immediately appointed Attorney for the Commonwealth for the circuit surrounding Staunton, and subsequently also Commonwealth's Attorney for Augusta County. This latter position was resigned by Chapman Johnson, himself a great lawyer, for the reason, as he declared, that Mr. Peyton's

qualifications for the office were so superior that justice to the county demanded his services. During the war of 1812 Mr. Peyton acted as chief of staff to General Porterfield, and in the field as well as the forum rendered distinguished service. From 1816, when he was appointed Deputy U. S. District Attorney to aid William Wirt, until his health became impaired in 1844, Mr. Peyton continued to fill the office of State's Attorney, serving also several terms as Mayor of the city and for eight years as a member of the State Senate.

His busy, useful life closed in 1847, but the fragrance of his memory lingers to this day, and his fame is one of the memories of the county. Capt. Bumgardner quoted the opinions of a long list of eminent men who were contemporaries of Mr. Peyton and recognized his great power as a lawyer. Among them was Daniel Webster, who in speaking of the celebrated report written by Mr. Peyton in opposition to the amendment of the Constitution of the United States, said that the "reasoning and conclusion were unanswerable."

In closing, Captain Bumgardner earnestly and eloquently summed up the salient points in the career of Mr. Peyton, declaring him to have been a man of commanding ability, of the highest culture, of profound legal learning, of the sternest integrity and strictest honor; worthy to be commemorated by placing his portrait in the group of great lawyers which now adorns the Court-house.

Major Thomas C. Elder was selected by the court to receive the portrait on behalf of the Board of Supervisors. The selection was a happy one. Never have we heard in that Court-house an address so chaste, so scholarly, so rich in beautifully worded thought, so thoroughly impressive and appropriate. It was a literary gem. To sketch it would be to mar it, and we regret that our limited space does not per-

mit its publication in full, together with the address to which it was a response.

Col. J. L. Peyton, son of Hon. John Howe Peyton, was present in the house, and calls were made for him to come to the stand. In recognition of this manifestation, the Colonel said he was taken by surprise in the call that was made, and could only say that he felt gratified with the manner the gift to the county had been received, and the eloquent and affecting remarks which had accompanied the presentation of the portrait and its reception. That he was pleased to see his father's likeness on the walls of the hall where his voice had so often resounded, and suspended in the midst of a people he had loved so much and served so faithfully, for with him it was "his country first, his country last, his country all the time."

The portrait is in oil and a speaking likeness. It is from Berkeley's Photo Studio, and was executed by a prominent New York artist. It hangs above that of John B. Baldwin and on the left of the great John Marshall.

## Letters.

FROM THE REV. J. HENRY SMITH, D. D., PASTOR OF THE  
FIRST PRESBYTERIAN CHURCH, GREENSBORO, N. C.,  
ONE OF THE FEW SURVIVORS OF MR.  
PEYTON'S OLD FRIENDS.

*Col. John L. Peyton:*

GREENSBORO, N. C., JULY 24TH, 1894.

MY DEAR SIR—I have just received from your hand a copy of the "Staunton Daily News" of the 21st inst., and I have read with very great pleasure, the beautiful and eloquent and richly deserved tributes to your honored father at the public meeting in your town called for the acceptance of your father's portrait. It well deserves to be placed among the purest and ablest and noblest of his talented and honored associates and contemporaries. I congratulate *you* on so interesting an occasion, and I sympathize with you in the filial joy and pride and gratitude to God that your heart, I know, felt, as those tributes were paid to your noble father's character and influence. Next to the fear of God, is the feeling we cherish for a father, who has taught us in the right way of virtue and honor, who has exemplified such a life and led us onward and upward. I think the *5th Commandment* stands in the decalogue where it does, because the love and reverence to parents is next to the love and fear of God, in the estimation of God himself.

Greek and Latin writers often classified and summed up human duty in the following threefold way,—“to fear the

gods—to honor one's parents, and to obey the laws of the land.' This was I think in the mind of *Cicero* when he said "in aristeis focus est Republica," *Plato* says "let us believe then that we can have no religious image more precious in the sight of heaven than a father, or a grand-father or a mother worn out with age, and that in proportion as we honor or delight in them with a religious joy, in the same proportion does God himself rejoice. Such sentiments, I believe, are fragments of the true and primitive religion carried abroad—but also soon afterward, in so many respects corrupted, we recognize such sentiments as a part of the original Divine law not wholly obliterated, thanks to God, by the fall.

For the sake of dear old Virginia, I thank you that your father's form and face is where it is—to be an incentive to virtue and patriotism, as it looks down from year to year upon all who enter your court of justice.

For your considerate kindness in sending me the paper, and awakening thoughts of the long past, and with apologies for this longer letter than I had thought to write, I am,

Gratefully yours,

J. HENRY SMITH.

FROM GEN. ECHOLS.

LOUISVILLE, KY., JULY 28, 1894.

*Maj. Thos. C. Elder, Staunton, Va.:*

MY DEAR MAJOR—After an absence of several days, I returned to this city yesterday, and found your postal of the 23rd inst., and also the newspaper containing an account of the ceremony of the delivery to, and acceptance by, the county authorities of Augusta County, of the portrait of the late distinguished John Howe Peyton. I am very much obliged to you for thinking of me, and giving me an opportunity of reading the addresses made by yourself and Capt.

Bumgardner on the occasion referred to. I have read the speeches with a great deal of interest, and I have been very much impressed and pleased with your chaste, striking, and eloquent address, as the representative of the Supervisors of the county, on accepting the portrait. You have, with a master's hand, delineated the character of Mr. Peyton, and I hope that your address will be preserved as a fitting accompaniment of the skillful personation of the striking countenance that the artist has presented. I recollect Mr. Peyton very well. When I was a boy I saw him, and heard him frequently at the bar, generally in Lexington. I have also a very pleasant recollection of having enjoyed his elegant and generous hospitality at his home.

When I can first remember Staunton the Staunton bar was made up of men who will long live in the memory of those who had the good fortune to know them.

Judge Thompson was on the bench, and around him Thos. J. Mitchie, A. H. H. Stuart, J. B. Baldwin, David Fultz, H. W. Sheffey and a number of other gentlemen, all of whom together formed a notable group that would have made any forum illustrious.

It is certainly a most fitting thing that the noble County of Augusta shall have her Pantheon, in which shall be gathered the statues and likenesses of her great sons, in order that those who come after shall see the men who have given to her her proud pre-eminence among the counties of the "Old Dominion."

Again thanking you for your kindness, and hoping to see you in a few days, I am, very truly yours,

JOHN ECHOLS.

Many other interesting letters have been received from distinguished gentlemen in different parts of the State, but neither time nor the limits of this pamphlet admit of their insertion.

FINIS.































































LIBRARY OF CONGRESS



0 014 442 794 4